



OFFICE OF THE POLICE COMMISSIONER

ONE POLICE PLAZA • ROOM 1400

September 20, 2011

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer William Stevens**
Tax Registry No. 918360
Manhattan Court Section
Disciplinary Case Nos. 83023/07, 84451/08 & 86446/10

The above named member of the service appeared before Assistant Deputy Commissioner Robert W. Vinal on October 4, 2010 and was charged with the following:

DISCIPLINARY CASE NO. 83023/07

1. Said Police Officer William Stevens, assigned to the Manhattan Court Section, on or about May 15, 16, and 17, 2007, assigned to perform a full regular tour of duty, was absent from work for said three (3) consecutive tours without leave.

P.G. 203-05, Page 1, Paragraph 1

PERFORMANCE ON DUTY

2. Said Police Officer William Stevens, assigned to the Manhattan Court Section, on or about May 20 and 21, 2007, assigned to perform a full regular tours of duty, was absent from work for said two (2) consecutive tours without leave.

P.G. 203-05, Page 1, Paragraph 1

PERFORMANCE ON DUTY

3. Said Police Officer William Stevens, assigned to the Manhattan Court Section, on or about May 24, 2007, having been directed by Medical Division Sick Desk personnel to report to the Psychological Evaluation Unit at 1000 hours later that day, did wrongfully fail and neglect to comply with said direction.

P.G. 203-03, Page 1, Paragraph 2

COMPLIANCE WITH ORDERS

4. Said Police Officer William Stevens, assigned to the Manhattan Court Section, on or about May 24, 2007, having reported sick, wrongfully and without just cause was absent from his residence without permission of said Police Officer's District Surgeon or the Medical Division Sick Desk Supervisor.

P.G. 205-01, Page 2, Paragraph 4

REPORTING SICK

P.O. OFFICER WILLIAM STEVENS
DISCIPLINARY CASE NOs. 83023/07, 84451/08 & 86446/10

1 Said Police Officer William Stevens, while assigned to the Military and Extended Leave Desk, on or about March 24, 2007, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer wrongfully stole or otherwise misappropriated property, including an airline ticket, an address book, and about \$150 United States currency, from the home of an individual known to the Department.

P.G. 203-10, Page 1, Paragraph 5 **PUBLIC CONTACT – PROHIBITED
CONDUCT - GENERAL REGULATIONS**

2 Said Police Officer William Stevens, while assigned to the Manhattan Court Section, on or about April 2, 2007, having been served with a Bronx County Family Court Order of Protection, issued March 30, 2007, in [REDACTED], by Judge Stokinger, did fail and neglect to immediately notify said Police Officer's Commanding Officer, supervisory head, or the Internal Affairs Bureau Command Center, as required
**P.G. 208-37, Page 4, Additional Data FAMILY OFFENSES AND DOMESTIC
VIOLENCE INVOLVING UNIFORMED OR CIVILIAN
MEMBERS OF THE SERVICE ARRESTS**

DISCIPLINARY CASE NO. 86446/10

1 Said Police Officer William Stevens, while assigned to the Manhattan Court Section, on or about four (4) dates between October 14, 2009 and November 5, 2009, having reported sick, wrongfully and without just cause was absent from his residence without permission of said Police Officer District Surgeon or the Medical Division Sick Desk supervisor

P.G. 205-01, Page 2, Paragraph 4 **REPORTING SICK**

2 Said Police Officer William Stevens, while assigned to the Manhattan Court Section, on or about four (4) dates between October 14, 2009 and November 5, 2009, having reported sick, wrongfully and without just cause made or caused to be made inaccurate entries in Department records regarding his whereabouts while on sick report

P.G. 203-05, Page 1, Paragraph 4 **PERFORMANCE ON DUTY
GENERAL REGULATIONS**

In a Memorandum dated January 10, 2011, Assistant Deputy Commissioner Vinal found, in Disciplinary Case No 83023/07, the Respondent to be Guilty of Specification No 1, Guilty in part of Specification No 2, and accepted Respondent Stevens Pleading Guilty to Specification Nos 3 and 4 In Disciplinary Case No 84451/08, ADC Vinal found Respondent Stevens Not Guilty of Specification No 1 and accepted the Respondent Pleading Guilty to Specification No 2

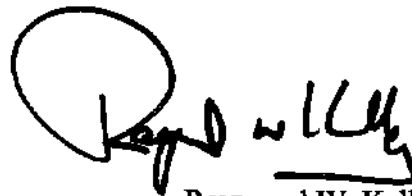
P.O. OFFICER WILLIAM STEVENS
DISCIPLINARY CASE NOs. 83023/07, 84451/08 & 86446/10

Lastly, in Disciplinary Case No. 86446/10, ADC Vinal found Respondent Stevens Guilty of both Specifications. Having read the Memorandum and analyzed the facts of these matters, I approve the findings, but disapprove the recommended penalty of 30 Suspension days already served, plus 30 Vacation days, plus One-Year Dismissal Probation.

Respondent Stevens's prior, poor disciplinary and performance history, coupled with the nature of misconduct committed here and associated findings of guilt, concern very serious issues and are problematic regarding the viability of him remaining a uniformed member of this Department. Thus, I find that Respondent Stevens's immediate separation from the Department is merited at this point.

It is directed that a post-trial vested-interest retirement agreement be implemented with Respondent Stevens whereby he is to immediately file for vested-interest retirement and is to be suspended for 30 days, with separation from the Department to occur at the conclusion of such 30-day period, with such separation while on Modified Assignment. Further, Respondent Stevens is to forfeit all suspension days previously served, is to waive all accrued time/leave balances, and is to be placed on a One-Year Dismissal Probation period.

Such vested-interest retirement shall also include Respondent Stevens's written agreement to not initiate any administrative applications or judicial proceedings against the New York City Police Department, including seeking reinstatement or return to the Department. This agreement is to be implemented **IMMEDIATELY**. If Respondent Stevens does not agree to the terms of this vested-interest retirement as noted, this Office is to be notified without delay.

A handwritten signature in black ink, appearing to read "Raymond W. Kelly". The signature is stylized with a large, circular initial "R" and a long, sweeping underline.

Raymond W. Kelly
Police Commissioner



POLICE DEPARTMENT

January 10, 2011

MEMORANDUM FOR: Police Commissioner

Re: Police Officer William Stevens
Tax Registry No. 918360
Manhattan Court Section
Disciplinary Case Nos. 83023/07, 84451/08 & 86446/10

The above-named member of the Department appeared before me on October 4 and October 5, 2010, charged with the following:

Disciplinary Case No. 83023/07

1. Said Police Officer William Stevens, assigned to the Manhattan Court Section, on or about May 15, 16, and 17, 2007, assigned to perform a full regular tour of duty, was absent from work for said three (3) consecutive tours without leave.

P.G. 203-05, Page 1, Paragraph 1 – PERFORMANCE ON DUTY

2. Said Police Officer William Stevens, assigned to the Manhattan Court Section, on or about May 20 and 21, 2007, assigned to perform a full regular tours¹ of duty, was absent from work for said two (2) consecutive tours without leave.

P.G. 203-05, Page 1, Paragraph 1 – PERFORMANCE ON DUTY

3. Said Police Officer William Stevens, assigned to the Manhattan Court Section, on or about May 24, 2007, having been directed by Medical Division Sick Desk personnel to report to the Psychological Evaluation Unit at 1000 hours later that day, did wrongfully fail and neglect to comply with said direction.

P.G. 203-03, Page 1, Paragraph 2 – COMPLIANCE WITH ORDERS

4. Said Police Officer William Stevens, assigned to the Manhattan Court Section, on or about May 24, 2007, having reported sick, wrongfully and without just cause was absent from his residence without permission of said Police Officer's District Surgeon or the Medical Division Sick Desk supervisor.

P.G. 205-01, Page 2, Paragraph 4 – REPORTING SICK

¹ As written in the charge.

Disciplinary Case No 84451/08

1 Said Police Officer William Stevens, while assigned to the Military and Extended Leave Desk, on or about March 24, 2007, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer wrongfully stole or otherwise misappropriated property, including an airline ticket, an address book, and about \$150 United States currency, from the home of an individual known to the Department

P G 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED
CONDUCT - GENERAL REGULATIONS

2 Said Police Officer William Stevens, while assigned to the Manhattan Court Section, on or about April 2, 2007, having been served with a Bronx County Family Court Order of Protection, issued March 30, 2007, in Case [REDACTED], by Judge Stokinger, did fail and neglect to immediately notify said Police Officer's Commanding Officer, supervisory head, or the Internal Affairs Bureau Command Center, as required

P G 208-37, Page 4, Additional Data – FAMILY OFFENSES AND DOMESTIC
VIOLENCE INVOLVING
UNIFORMED OR CIVILIAN
MEMBERS OF THE SERVICE ARRESTS

Case No 86446/10

1 Said Police Officer William Stevens, while assigned to the Manhattan Court Section, on or about four (4) dates between October 14, 2009 and November 5, 2009, having reported sick, wrongfully and without just cause was absent from his residence without permission of said Police Officer District Surgeon or the Medical Division Sick Desk supervisor

P G 205-01, Page 2, Paragraph 4 – REPORTING SICK

2 Said Police Officer William Stevens, while assigned to the Manhattan Court Section, on or about four (4) dates between October 14, 2009 and November 5, 2009, having reported sick, wrongfully and without just cause made or caused to be made inaccurate entries in Department records regarding his whereabouts while sick report

P G 203-05, Page 1, Paragraph 4 – PERFORMANCE ON DUTY- GENERAL
REGULATIONS

The Department was represented by David H Green, Esq , Department Advocate's Office, and the Respondent was represented by Hugo G Ortega, Esq

The Respondent, through his counsel, entered pleas of Guilty to certain of the subject charges and pleas of Not Guilty to the remaining charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

Disciplinary Case No. 83023/07

The Respondent is found Guilty of Specification No. 1. The Respondent is found Guilty, in part, of Specification No. 2. The Respondent, having pleaded Guilty, is found Guilty of Specification Nos. 3 and 4.

Disciplinary Case No. 84451/08

The Respondent is found Not Guilty of Specification No. 1. The Respondent, having pleaded Guilty, is found Guilty of Specification No. 2.

Disciplinary Case No. 86446/10

The Respondent is found Guilty.

SUMMARY OF EVIDENCE PRESENTED

Introduction

It is not disputed that during the time period relevant to these charges, the Respondent resided with [REDACTED], which is located

[REDACTED]

[REDACTED] In [REDACTED]

[REDACTED]

[REDACTED] During 2009, the Respondent acted as his own general contractor regarding the construction of this new house

It is also undisputed that the Respondent had an eight-year romantic relationship with Ana Tejada [REDACTED]

[REDACTED] On March 24, 2007, the Respondent was inside Tejada's apartment with her permission so that he could visit with [REDACTED] while she was out. On April 2, 2007, the Respondent was served with an Order of Protection which was issued to Tejada on March 30, 2007, by Bronx County Family Court Judge Stokinger

The Department's Case

The Department called Psychologist Level One Emily Dearden, Lieutenant Dominick Valenti, Sergeant Ralph Pena and Ana Tejada as witnesses

Emily Dearden

Emily Dearden, a Department Psychologist Level One who has been assigned to the Medical Division's Psychological Services Section for eight years, testified that for the past three years she has been assigned as the Psychological Services Section's liaison to the Police Organization Providing Peer Assistance (POPPA) program

Dearden recalled that she first met the Respondent in April, 2007, when he was referred to the Psychological Services Section and she was the psychologist who was assigned to meet with him. She met with him about six times, once or twice a month.

She recalled that she received a telephone call from the Respondent on Monday, May 14, 2007, in which he told her that during a medical appointment he had with Dr. White on May 12 or 13, 2007, he had requested that Dr. White return him to full duty status, because he felt that he should really go back to work, and that Dr. White had returned him to full duty. The Respondent told Dearden that he now believed that he should not be returned to full duty because he did not feel emotionally or psychologically ready to return to full duty since he was suffering anxiety attacks as a result of issues regarding his relationship with "Ana" (Tejada) and "also needing time off from work because he wanted to work on his house that he was working on himself." She told him that he would have to call and "place himself out on psych sick." Dearden testified that she never told the Respondent that she was giving him permission to "go psych sick" and she did not give him permission to be absent for his scheduled tours of duty on May 15, 16 and 17, 2007. The Respondent did not report at his command for these three scheduled tours of duty.

Dearden and the Respondent had another telephone conversation on May 18, 2007, when he called her and asked, "Why haven't you called me in?" She recalled that she responded, "I had no notification that you were out psychologically sick." He told her that he had not been at work the entire week. After consulting with her supervisor, she told him to come and meet with her on May 21, 2007. She did not know whether he

reported at his command on May 20 or 21, 2007. He appeared at her office as directed on May 21, 2007.

On cross-examination, Dearden confirmed that during their telephone conversation on May 14, 2007, she told the Respondent that she would try to contact his command and that she would call him back. She did not call him back that day.

Lieutenant Dominick Valenti

Lieutenant Valenti, who is assigned to the Medical Division and has served as the commanding officer of the Medical Division's Absence Control and Investigations Unit for the past ten years, testified that he conducted an investigation into whether the Respondent had appeared at his assigned command to perform scheduled tours of duty on May 15, 16 and 17, 2007. Valenti testified that on May 14, 2007, the Respondent attended a medical appointment with Dr. White and that although Dr. White returned him to full duty status, the Respondent never appeared at his assigned command to report for his scheduled tours of duty on May 15, 16, 17, 20 or 21, 2007. When the Respondent's failure to appear at his assigned command to perform these scheduled tours of duty was discovered, the Respondent was suspended on May 25, 2007. On June 25, 2007, the Respondent was restored to duty and placed on modified assignment.

Valenti testified that when the Respondent went on sick report on October 14, 2009, he assigned Sergeant Ralph Pena to conduct surveillances of the Respondent's out of residence movements.

On cross-examination, Valenti testified that he had not been aware that Dearden had called the Sick Desk on May 18, 2007, and that she had been told by the Sick Desk

officer that the Respondent was being carried sick. Valenti testified that he also had not been aware that Dearden had set up an appointment for the Respondent on May 21, 2007, and that the Respondent had appeared for his appointment with Dearden that day. Valenti confirmed that at his official Department interview, the Respondent stated that because he had been meeting regularly with Dearden, he believed that by calling Dearden on May 14, 2007, and reporting to her that that he felt psychologically sick, that it was his understanding that he would then be carried as being out sick.

Sergeant Ralph Pena

Sergeant Pena, who is assigned to the Medical Division's Absence Control and Investigations Unit, testified that while the Respondent was on sick report between October 14, 2009 and November 5, 2009, he possessed a four-hour pass, which permitted him to be out of residence each day without seeking permission from the Sick Desk, between 1400 hours and 1800 hours. Pena testified that this pass restricted the Respondent from traveling outside of New York County, which was his county of residence because he resided in Manhattan.

Pena testified that on October 14, 2009, the Respondent called the Sick Desk at 0802 hours and requested permission to leave his residence to travel to a doctor's office at [REDACTED]. He was granted permission. At 0830 hours, Pena arrived outside [REDACTED] and he remained there until 1000 hours. Pena testified that he never saw the Respondent or his personal vehicle in the vicinity of [REDACTED]. [REDACTED] Pena obtained a videotape produced by a surveillance camera which recorded the entry door of [REDACTED] on October 14, 2009. Between 0800 hours and 1042

hours, the Respondent is not seen on the videotape. At 1042 hours, the Respondent is seen on the videotape entering [REDACTED]

Pena recalled that he conducted a surveillance of the Respondent on October 27, 2009. On October 27, 2009, the Respondent called the Sick Desk at 1836 hours and requested permission to leave his residence to travel to an [REDACTED] [REDACTED] at [REDACTED]. Pena arrived outside [REDACTED] and he remained there until the [REDACTED] ended. He did not see the Respondent at [REDACTED]. Pena testified that he then drove to the Respondent's residence and remained there until he saw the Respondent arrive home at 2040 hours. The Respondent had three children with him in his car.

Pena testified that on November 4, 2009, the Respondent called the Sick Desk at 0839 hours and requested permission to leave his residence to travel to a doctor's office at [REDACTED]. He was granted permission. Pena followed the Respondent's vehicle when he drove away from his residence. His children were in the car with him. [REDACTED] [REDACTED]e. The Respondent then drove to [REDACTED] parked his car, got out and engaged in conversations with workers at a home construction site. The Respondent then drove to [REDACTED].

Pena testified that the next day, November 5, 2009, he arrived outside the Respondent's residence at 0825 hours. Since Pena did not see the Respondent's personal vehicle there, he drove to [REDACTED]. When Pena did not see the Respondent's personal vehicle there, Pena drove to [REDACTED]. He arrived there at 0857 hours and saw the Respondent there at the construction site. The

Respondent had not called the Sick Desk to seek permission to leave his residence in [REDACTED] to travel anywhere. At 0913 hours, the Respondent called the Sick Desk for the first time that day and requested permission to leave his residence to attend an appointment with [REDACTED].

[REDACTED] was allowed to drive to his [REDACTED] for the personal purpose of [REDACTED] [REDACTED], but that the Respondent was not permitted to drive to [REDACTED] for the personal purpose of supervising the construction of his new house.

Pena confirmed that it was because he had followed the Respondent's vehicle when the Respondent drove to [REDACTED] that he had learned that he was constructing a new house there. With regard to the [REDACTED] [REDACTED], on October 27, 2009, Pena recalled that he was outside [REDACTED] when the [REDACTED] ended and that he did not see the Respondent come outside with those people who had attended the meeting. Pena did not enter [REDACTED].

Ana Tejada

Tejada testified² that she and the Respondent had broken up two times during their relationship which began in 1999. On March 24, 2007, [REDACTED], who lives in [REDACTED], was visiting and staying with her in her apartment [REDACTED]. The Respondent was not living with Tejada. That evening, Tejada and her mother left Tejada's apartment leaving the Respondent inside her apartment to watch [REDACTED] [REDACTED]. When she and her mother returned at about 9 p.m., she found the Respondent

² With the assistance of a translator, Detective Luddy Quintero, who translated Tejada's answers from Spanish into English.

downstairs, not upstairs watching [REDACTED] After the Respondent left, [REDACTED] stated that her travel bag was missing and that the bag had contained her passport, her airplane ticket and her telephone book \$150 in cash was also missing from a drawer Tejada telephoned the Respondent numerous times demanding that he return the items he had stolen The Respondent consistently denied that he had stolen anything Her mother insisted that she file a police report but Tejada did not do so because she thought that the Respondent would return the items

The next morning, Tejada drove alone to the Respondent's residence and saw him near his car Tejada again demanded that he return the items he had stolen and the Respondent again denied that he had stolen anything The Respondent then entered his residence Tejada testified that the Respondent had previously lost a set of keys to his car, that she had found them and that she had brought them with her that morning She used this set of keys to unlock and open his car Inside the car she found a bag which contained all of her mother's items and some of Tejada's personal mail She took the bag and drove home Later that day, she telephoned him and demanded that he return the papers he had taken even though she had recovered them from his car He told her that if her mother needed money to purchase an airplane ticket, he would give her the money

On cross-examination, Tejada denied that she had ever accused the Respondent of child abuse She confirmed that in April, 2003, she had reported to the police that the Respondent had gone to see their child at his babysitter's house without informing Tejada of this She was not present when the Respondent was at the babysitter's house She confirmed that she still has the Respondent's set of keys to his car and that she has never returned them to him

Tejada testified that she never told Internal Affairs Bureau (IAB) investigators that the Respondent's car was open when she searched it. Tejada was confronted with the transcript of her IAB interview in which she told her interviewers that she had told the Respondent that "you left your car open and I got your license and credit card." Tejada asserted that she had removed his license and his credit card from the car because they were next to her papers. She later returned his license and credit card to him. Tejada recalled that when she arrived home, she decided to telephone the Respondent and again demand that he return the items that he had taken from her apartment although she had recovered everything that had been taken, except the cash, from his car.

The Respondent's Case

The Respondent testified in his own behalf.

The Respondent

The Respondent testified that on March 24, 2007, when he left Tejada's apartment after watching their son Nicholas, he did not take anything from the apartment. Tejada falsely accused him of starting a fire inside her apartment on March 28, 2007. The Respondent admitted that on April 2, 2007, he was served with an Order of Protection, which had been issued to Tejada on March 30, 2007 by [REDACTED] Family Court Judge Stokinger, and that he made a "mistake" in that he did not immediately notify his commanding officer or the IAB Command Center, as he was required to do, because, as a result of his personal problems and concerns, "it just didn't cross my mind."

The Respondent recalled that at his May 14, 2007, medical appointment with Dr White, Dr White told him that he was returning him to full duty status. Based on what Dr White had told him, the Respondent testified that he assumed that he would be scheduled by his command to perform a full regular tour of duty on May 15, 2007. The Respondent recalled that after he met with Dr White, he telephoned Dearden. As he was speaking with Dearden, he began crying. He told her that because of the stress he was feeling regarding his relationship with Tejada and the house construction, he did not feel emotionally and psychologically ready to return to work. Dearden responded that she would try to speak to his supervisor and that she would get back to him as to whether he had to report "psych sick."

He had another telephone conversation with Dearden on May 18, 2007. She told him to come to meet with her at the Psychological Evaluation Section (PES) on May 21, 2007. He met with her there on May 21, 2007.

The Respondent agreed that while he was on sick report between October 14, 2009 and November 5, 2009, he possessed a four-hour pass, which permitted him to be out of residence each day between 1400 hours and 1800 hours without having to seek permission from the Sick Desk.

The Respondent asserted that on October 27, 2009, he began calling the Sick Desk at 1800 hours to request permission to leave his residence to travel to the [REDACTED] at [REDACTED], but that he was not able to get through to the Sick Desk until 1836 hours. The Respondent further asserted that he attended the [REDACTED] but that he did not leave immediately after the meeting when the others who had attended walked out. The Respondent testified that he went to this [REDACTED]

FINDINGS & ANALYSIS

Disciplinary Case No 83023/07

Specification No 1

It is charged that the Respondent was assigned to perform a full regular tour of duty on May 15, 16, and 17, 2007, and that he was AWOL from work for all three of these consecutive tours

In his testimony at this trial, the Respondent admitted that on May 14, 2007, Dr White told him that he was returning him to full duty status. The Respondent further admitted that he believed and assumed that he would be scheduled by his command to perform full regular tours of duty on May 15, 16 and 17, 2007.

The Respondent contended that he had no intent to be AWOL from his assignment on May 15, 16 and 17, 2007, and that his failure to appear at his command to perform these scheduled tours was the result of a misunderstanding based on his May 14, 2007, telephone conversation with Dearden. Valenti confirmed that at his official Department interview, the Respondent stated that he had believed that by calling Dearden and reporting to her that that he felt psychologically sick, he would be carried as out sick. However, I credit Dearden's testimony that she never told the Respondent that she was giving him permission to "go psych sick."

The Respondent's claim that he believed that by reporting to Dearden that he was feeling psychologically stressed that she would arrange for him to be carried on sick report is not credible. The Respondent admitted that he never got a call back from Dearden and he also admitted he never called his command to see if she had reported him

sick I also reject his claim as a defense to these AWOL charges because it was the Respondent's responsibility to insure that he was in compliance with the Patrol Guide's sick leave procedures. Since the Respondent knew that he had been returned to full duty status on May 14, 2007, and since the Respondent correctly assumed and believed that he would be scheduled by his command to perform a full regular tour of duty on May 15, 2007, the Respondent was required to contact his command or the Medical Division and personally report sick for his next tour.

The Respondent is found Guilty of Specification No. 1

Specification No. 2

It is charged that the Respondent was assigned to perform full regular tours of duty on May 20 and 21, 2007, and that he was AWOL for these consecutive tours.

The Respondent admitted that he did not perform these scheduled tours. Since I credit Dearden's testimony that she never told the Respondent that she was giving him permission to "go psych sick" during their May 14, 2007 telephone conversation or during their May 18, 2007 telephone conversation, I find the Respondent Guilty of being AWOL from his assignment on May 20, 2007.

As to his tour of duty on May 21, 2007, Dearden confirmed that she and the Respondent had a telephone conversation on May 18, 2007, that during this conversation she directed him to come to PES and meet with her on May 21, 2007 and that he appeared at her office as directed on May 21, 2007. Valenti testified that since he was never even aware that the Respondent had met with Dearden on May 21, 2007, he never checked to see what time the Respondent had arrived and what time he left. Since the

Respondent reported to Dearden at her office as directed on May 21, 2007, I find the Respondent Not Guilty of being AWOL on May 21, 2007

Based on the above, the Respondent is found Guilty of that part of this Specification which charges that he was AWOL for his tour of duty on May 20, 2007

Specification Nos 3 and 4

The Respondent pleaded Guilty as charged to Specification Nos 3 and 4 With regard to his failure on May 24, 2007, to report to the PES at 1000 hours as directed, the Respondent recalled that he was distraught and taking medications at that time With regard to his misconduct of being absent from his residence that day without permission while he was on sick report, the Respondent recalled that he and Tejada went shopping for clothing [REDACTED] and that he also stopped at the [REDACTED] construction site because he was acting as his own general contractor regarding the construction

The Respondent, having pleaded Guilty, is found Guilty of Specification Nos 3 and 4

Disciplinary Case No 84451/08

Specification No 1

It is charged that on March 24, 2007, the Respondent engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that he stole or otherwise misappropriated property, including an airline ticket, an address book, and about \$150 in cash, from Tejada's home

The only evidence offered by the Department to prove that the Respondent took anything from Tejada's apartment when he left after his visit [REDACTED] on March 24, 2007, was the testimony of Tejada. Similarly, the record is devoid of any evidence which corroborates Tejada's claim that when she and [REDACTED] returned to Tejada's apartment her [REDACTED] bag was missing, and the record is devoid of any evidence which corroborates Tejada's claim that she found the bag and the items inside the Respondent's car.

I find that Tejada's testimony, standing alone, constitutes insufficient evidence to prove this charge by a preponderance of the credible evidence. Tejada's claims must be closely examined not only in light of her on-again, off-again, relationship with the Respondent, but also in light of her acknowledgement that she did not immediately report the Respondent's alleged theft to the police, her admissions that she kept property that was his and removed property that was his from his car, and an inconsistency between her testimony at this trial and what she told her IAB interviewers.

Tejada testified at this trial that she never stated at her IAB interview that the Respondent's car was open when she searched it. However, the transcript of her IAB interview shows that she stated that she had told the Respondent that "you left your car open and I got your license and credit card." Tejada admitted that after she found a set of keys to his car that the Respondent had lost, she never told him that she had found them and she has never returned them to him. Rather, she kept them and then supposedly used this set of keys to unlock, open and search his car without his permission. If her claim that she did this is true, then her admission (at her IAB interview) that she told the Respondent that he had left his car open constituted a false statement she made to the

Respondent Also, since the crime of larceny includes intentionally depriving an owner of his property by withholding the property from the owner,³ Tejada's admission that she kept the Respondent's car keys constitutes an admission to a larceny Tejada also claimed that she removed his license and his credit card from his car merely because they were next to her papers She offered no reasonable explanation for why she would take possession of his property Finally, Tejada's admission that when she arrived home she telephoned the Respondent and again demanded that he return the items she alleged that he had taken, even though she had supposedly just recovered everything other than the missing cash from his car, can only be characterized as either disingenuous or bizarre

The Respondent is found Not Guilty

Specification No. 2

The Respondent pleaded Guilty as charged and admitted that after he had been served with a [REDACTED] Order of Protection on or about April 2, 2007, he failed to immediately notify his commanding officer or IAB about this Order of Protection (which had been issued on March 30, 2007 by Judge Stokinger) as he was required to do

The Respondent, having pleaded Guilty, is found Guilty of Specification No. 2

Disciplinary Case No. 86446/10

Specification Nos. 1 and 2

It is charged that on four dates between October 14, 2009 and November 5, 2009, the Respondent was absent from his residence without permission while on sick report

³ Penal Law Section 155.05(1)

and that he caused inaccurate entries to be made in Department records regarding his whereabouts during these four absences from his residence. The Respondent confirmed Sergeant Pena's testimony that while he was on sick report between October 14, 2009 and November 5, 2009, his daily four-hour pass, which permitted him to be out of residence without requesting prior permission from the Sick Desk, was valid only between 1400 hours and 1800 hours. I credit Pena's testimony that this pass restricted the Respondent from traveling outside of [REDACTED], his county of residence. I further credit Pena's testimony regarding the surveillances he conducted on October 14, 2009, October 27, 2009, November 4, 2009 and November 5, 2009. Pena's testimony establishes that on all of these dates the Respondent was absent from his residence without permission while on sick report and that he caused inaccurate entries to be made in the Sick Desk's records regarding his whereabouts, in that he was not present at locations that he had told the Sick Desk he was leaving his residence to travel to, or he was improperly present at the house he was constructing on [REDACTED] County, a location he had never received permission to travel to.

The Respondent is found Guilty

PENALTY

In order to determine an appropriate penalty, the Respondent's service record was examined. See *Matter of Pell v Board of Education*, 34 N.Y. 2d 222 (1974).

The Respondent was appointed to the Department on July 18, 1996. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Respondent has pleaded guilty and admitted that he failed to report to PES as directed and that he was absent from his residence without permission while he was on sick report. Although the Respondent offered testimony that he was distraught and taking medications at the time he committed this misconduct, apparently he was not so distraught that he could not accompany Tejada on a shopping trip for clothing for [REDACTED] or stop at the [REDACTED] house construction site. The Respondent testified that he only stopped at the [REDACTED] site because he was acting as his own general contractor regarding the construction and because it was [REDACTED]. This testimony does not serve to mitigate his misconduct.

The Respondent has been found Guilty of being AWOL from his assignment on five dates and being absent from his residence without permission while on sick report, and causing inaccurate entries to be made in Department records regarding his whereabouts, on four dates. The Respondent's misconduct of being AWOL from his assignment and violating sick leave procedures constitutes serious misconduct and, in fashioning an appropriate penalty, consideration must be given to the Respondent's prior disciplinary adjudication which included the same misconduct of being out of residence without permission while on sick leave (see attached Confidential Memorandum).

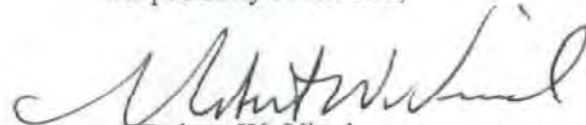
The Assistant Department Advocate recommended that the Respondent be Dismissed from the Department based on all of the misconduct he is charged with having committed in these three cases. Since I am recommending that the Respondent be found Not Guilty of Tejada's allegation that he stole or otherwise misappropriated property and cash from her home, and since the Respondent's prior disciplinary adjudication involved misconduct he committed a decade ago, I believe a penalty short of

immediate termination is warranted. However, it must be made clear to the Respondent that any further misconduct, especially if it relates to sick leave procedures, will result in his separation from the Department.

Therefore, it is recommended that the Respondent be DISMISSED from the New York City Police Department, but that his dismissal be held in abeyance for a period of one year, pursuant to Section 14-115 (d) of the Administrative Code, during which time he remains on the force at the Police Commissioner's discretion and may be terminated at anytime without further proceedings.

With regard to Disciplinary Case No. 83023/07, the Respondent was suspended from May 25, 2007 to June 25, 2007, regarding the misconduct that is the subject of Specification Nos. 1 and 2. It is further recommended that the Respondent forfeit the 30 days he served on pre-trial suspension and that he also forfeit 30 vacation days for a total forfeiture of 60 days.

Respectfully submitted,



Robert W. Vinal

Assistant Deputy Commissioner - Trials



POLICE DEPARTMENT
CITY OF NEW YORK

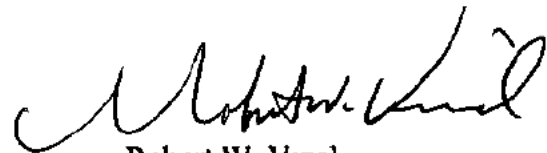
From Assistant Deputy Commissioner - Trials
To Police Commissioner
Subject CONFIDENTIAL MEMORANDUM
POLICE OFFICER WILLIAM STEVENS
TAX REGISTRY NO 918360
DISCIPLINARY CASE NOS 83023/07, 84451/08 & 86446/10

The Respondent received an overall rating of 4.0 on his 2008 performance evaluation, 4.0 on his 2007 evaluation, and 3.0 on his 2005 evaluation. He has been awarded one Excellent Police Duty medal [REDACTED]

He has a prior formal disciplinary record. In 2002, he was required to forfeit 25 days (including 20 days served on pre-trial suspension) after he was found guilty at trial of being absent from his residence without permission while he was on sick report on August 5, 1999, and being discourteous to a civilian motorist by calling him an "asshole."

From August, 2002 until March, 2004, he was under Level II Disciplinary Monitoring, which had been upgraded from Level I, based on his overall record. In September, 2007, he was again placed in Level II Disciplinary Monitoring for "serious misconduct." This Disciplinary Monitoring is still active.

For your consideration



Robert W. Vinal
Assistant Deputy Commissioner - Trials